

Section 1. Section 104.21.5 is added to the Streets and Highways Code to read:

104.21.5 (a) The department is authorized but not required to make available for lease airspace or real property; provided that the department determines that such airspace or real property is available for rent, and that it has independent site access separate from an access-controlled highway or highway structure. The department may offer the airspace or real property for lease to a city, a county, a city and county, or a political subdivision thereof or a state agency for the sole purpose of conducting a temporary emergency shelter or feeding program. As a condition of entry into the lease, the lessee shall agree that, during the period of the lease, the airspace or real property and its improvements shall not be used as child care facilities and that no playground equipment is permitted under the lease. Any existing lease between the department and a city, county, city and county, or a political subdivision thereof may be terminated without penalty at any time, upon mutual agreement of both the department and the lessee, for the purpose of entering into a new lease pursuant to this section.

(b) The determination of availability and identification of specific parcels of airspace or real property eligible for lease under this section shall be made by the department in its sole discretion.

(c) Notwithstanding Chapter 7.8 of Division 1 of Title 2 of the Government Code, all structures that are constructed or modified under this section must be compliant with the minimum standards provided in the 2016 California Building Code Appendix N, the 2016 California Residential Code Appendix X, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities.

Any improvements to the leased property must meet the following conditions:

(1) No improvements of a permanent nature are allowed, except for appropriate utilities to support the temporary emergency shelter or feeding program as approved by the department.

(2) Any improvements in which people live, eat, recreate, receive services, or otherwise occupy must not be underneath transportation structures, and must not be within 20 horizontal feet from the farthest edge of a transportation structure.

(d) Notwithstanding any other provision of law, for any leases executed by the department for the purpose of conducting a temporary emergency shelter or feeding program, the enforcement of building standards published in the California Building Code and the California Residential Code, including those relating to fire and panic safety, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities shall be the responsibility of the city, county, city and county, or the political subdivision thereof.

(e) (1) Monthly rental under the lease shall be in the amount one dollar (\$1) per month. The lessee may pay rental amounts due for the entire term of the lease in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

(2) The lessee shall reimburse the department for its costs associated with initializing the lease, including, but not limited to, environmental review, contract development, and legal review. The lessee shall pay an initial deposit of no less than fifteen thousand dollars (\$15,000) to the department to cover the department's lease initialization costs. In the event that the deposit

exceeds the department's costs, as determined by the department, the department shall return remainder of the deposit to the lessee.

(3) To cover the department's costs, the lease shall require the lessee to pay an administrative fee of the greater of two thousand dollars (\$2,000) per year, or the department's actual cost for administering the lease as determined by the department.

(4) (A) At any time after the commencement of the lease, if the department determines that the leased property is needed for departmental purposes, the department shall have the right to terminate the lease without penalty or reimbursement of prior lease payments made to the department. In this circumstance, the department shall reimburse any advance lease payments and fees made to the department on a prorated basis.

(B) Notwithstanding any other provision of law, if the department terminates the lease in accordance with subparagraph (A), neither the lessee nor any occupants of the leased property shall be entitled to relocation benefits or reimbursement of relocation expenses payable by the department or the state.

(C) The department shall provide the lessee with no less than 90 days' written notice prior to the termination of a lease pursuant to this section, except in the case of an emergency.

(5) The lessee shall defend, indemnify, and hold the state, its officers, officials, employees, agents and volunteers harmless from any and all losses, claims, injuries, damages, losses, suits, obligations, penalties, judgments, awards and other liabilities including attorney fees, whether caused by, relating to, based upon, arising out of or in connection with the performance of the lease, the temporary emergency shelter, or feeding program.

(6) The lessee shall be responsible for all site conditions, including, not but limited to, maintenance, litter and graffiti abatement, security, environmental testing and remediation, and other legal and permitting requirements at the leased site as required by the department.

(f) The Legislature finds and declares that the lease of airspace or real property pursuant to this section serves a public purpose.

(g) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to any activity or approval by the department necessary for or incidental to planning, design, site acquisition, construction, operation, or maintenance of an emergency shelter or feeding program on property leased pursuant to this section.